APPENDIX A — EXCERPTS FROM TRANSCRIPT OF JURY TRIAL DATED JUNE 3, 1997

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

Civil Action No. 96-4411

Easton, PA
June 3, 1997
9:00 a.m.

DAVID NEWHARD,

Plaintiff,

vs.

PHILADELPHIA, BETHLEHEM AND NEW ENGLAND RAILROAD COMPANY,

Defendant.

TRANSCRIPT OF JURY TRIAL
BEFORE THE HONORABLE
FRANKLIN S. VAN ANTWERPEN
UNITED STATES DISTRICT JUDGE

* * *

Appendix A

[Commencing at page 186]

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MR. HAGGERTY: But then he shouldn't be able to stand here today and say, I'd be working on the railroad.

MR. ZERO: He certainly would be if it hadn't been for this incident, and he testified to that.

THE COURT: This requires — I'm aware of — I think it's *Brandt v. Vulcan*. It's a Seventh Circuit case back in '94. I'm aware that information about pensions can be used to impeach under some circumstances, but here, I have to weigh the probative value versus the prejudicial value, and I still come down on the side of saying that the extreme prejudice from that to the plaintiff, from that type of information, being in front of a jury, I think outweighs the probative value. So I'm still down on the side of not permitting it to come in.

MR. ZERO: Thank you, your Honor.

(Recess)

APPENDIX B — EXCERPTS FROM TRANSCRIPT OF JURY TRIAL DATED JUNE 5, 1997

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

Civil Action 96-4411

Easton, PA
June 5, 1997
9:00 a.m.

DAVID NEWHARD,

Plaintiff,

vs.

PHILADELPHIA, BETHLEHEM and
NEW ENGLAND RAILROAD COMPANY,

Defendant.

TRANSCRIPT OF JURY TRIAL
BEFORE THE HONORABLE
J. FRANKLIN S. VAN ANTWERPEN
UNITED STATES DISTRICT JUDGE

* * *

Appendix B

[Commencing at page 161]

With respect to lost wages, the rule is just the opposite. There we're talking about net income, take home pay, if you will. The lost wages must be based upon after tax net income. When I say take home pay, I mean after taxes. I'm not talking about any other deductions for you know, savings bonds or something like that. I'm strictly talking about after tax income.

Now if you find that the plaintiff's injuries are reasonably certain to continue beyond today, you must determine the life expectancy and the work life expectancy of the plaintiff, David Newhard. Now according to statistics testified to, the average life expectancy was 23.5 years. And the average work life expectancy was 7.5 years to 10.5 years for all persons whose sex, race and age is the same as that of the plaintiff.

Now these figures were testified to by Mr. Bunin. He took them from various published works. They're offered to you as a guide. They're not conclusive and you're not bound to accept them if you believe the plaintiff will live a longer or shorter time than the average person in the plaintiff's category. In reaching this decision you may consider the plaintiff's health prior to the happening of the alleged negligence, his manner of living, his personal habits, type of work and work habits, and any other factors that may affect the duration of his life and work life.

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